

In the Matter of:

**SHARON E. BUSH,**

Petitioner

HUDBCA No. 03-D-CH-AWG05

Claim No. 7-71035885

Sharon Bush  
4021 Crab Tree Cove  
Midwest City, OK 73110

Petitioner, Pro se

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For the Secretary

## **DECISION ON ADMINISTRATIVE WAGE GARNISHMENT**

### **Background**

Petitioner has requested a hearing concerning a proposed administrative wage garnishment relating to a debt allegedly owed to the U.S. Department of Housing and Urban Development ("HUD"). This alleged debt has resulted from a defaulted loan which was insured against non-payment by the Secretary of HUD. This hearing is authorized by the Debt Collection Improvement Act of 1996, as amended, (31 U.S.C. § 3720D) and applicable Departmental regulations. The administrative judges of this Board have been designated to determine whether this debt is past-due and enforceable against Petitioner and, if so, whether the Secretary may collect the alleged debt by administrative wage garnishment. 24 C.F.R. § 17.170(b). Pursuant to 31 C.F.R. § 285.11(f)(10)(i), issuance of a wage withholding order was stayed until the issuance of this written decision.

The hearing is conducted in accordance with the procedures set forth at 31 C.F.R. § 285.11, as authorized by 24 C.F.R. § 17.170, and is limited to a review of the written record, unless otherwise ordered. The Secretary has the initial burden of proof to show the existence and amount of the debt. 31 C.F.R. § 285.11(f)(8)(i). Petitioner thereafter must present by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect. In addition, Petitioner may present evidence that the terms of the repayment schedule are

unlawful, would cause a financial hardship to Petitioner, or that collection of the debt may not be pursued due to operation of law. 31 C.F.R. § 285.11(f)(8)(ii).

### **Summary of Facts and Discussion**

31 U.S.C. § 3720D authorizes Federal agencies to utilize administrative wage garnishment as a remedy for the collection of debts owed to the United States Government. The review of the record of this proceeding is conducted in accordance with the procedures set forth at 31 C.F.R. § 285.11, as authorized by 24 C.F.R. § 17.170.

Petitioner does not dispute on the existence or amount of the debt. Rather, Petitioner claims that: (1) administrative wage garnishment of her disposable pay would cause financial hardship; and (2) administrative wage garnishment is an unnecessary means to collect this debt. (Petitioner's letter dated December 16, 2002).

On June 10, 1994, Petitioner executed and delivered to the lender, Hug A Home, an installment note in the amount of \$6,902.64 for a home improvement loan that was insured against nonpayment by the Secretary of HUD pursuant to Title I of the National Housing Act, 12 U.S.C. § 1703. Thereafter, Hug A Home assigned the note to Coast Partners Acceptance Corp. Petitioner defaulted on the note. Consequently, Empire Funding Corp., as servicing agent for Coast Partners Acceptance Corp., assigned the note to the United States of America pursuant to 24 C.F.R. § 201.54. The Secretary is the holder of the note on behalf of the United States. (Secretary's Statement, hereinafter "Secy. Stat.", Exhs. A & B).

The Secretary has filed a Statement with documentary evidence in support of his position that Petitioner is indebted to the Department in a specific amount. Petitioner, however, has submitted no documentary evidence to demonstrate that administrative wage garnishment of her disposable pay would cause financial hardship. Assertions without evidence are not sufficient to show that the debt claimed by the Secretary is not past-due or enforceable. Bonnie Walker, HUDBCA No. 95-G-NY-T300 (July 3, 1996).

Petitioner states that she is willing to resolve this matter without the necessity of wage garnishment. Petitioner now seeks an arrangement with the Department to repay this debt. (Petitioner's letter dated December 16, 2002). However, this Board is not authorized to extend, recommend, or accept any

payment plan or settlement offer on behalf of the Department. Consequently, Petitioner may wish to convey her offer to settle this matter to Lester J. West, Director, HUD Albany Financial Operations Center, 52 Corporate Circle, Albany, NY 12203-5121. His telephone number is 1-800-669-5152, extension 4206. Petitioner may also request a review of his financial status by submitting to that HUD office a Title I Financial Statement (HUD Form 56142). In any event, Petitioner has provided no legal or factual basis on which this Board can grant the relief requested by Petitioner.

### **ORDER**

In the absence of any evidence submitted by Petitioner to disprove the documentary evidence submitted by the Secretary, I find that the debt which is the subject of this proceeding is legally enforceable against Petitioner in the amount claimed by the Secretary. The Order imposing the stay of referral of this matter to the U.S. Department of Treasury for administrative wage garnishment is vacated.

It is hereby **ORDERED** that the Secretary is authorized to seek collection of this outstanding obligation by means of administrative wage garnishment to the extent authorized by law.

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Jerome M. Drummond  
Administrative Judge

January 17, 2003